

November 17, 2006

Maine Milk Commission Special Meeting Minutes
Deering Building, Room 233
Augusta, Maine 04333

Notices for the November 17, 2006 meeting were distributed to Commission members, intervenors and other interested parties October 23, 2006 and sent to the Secretary of State's Office for posting on October 23, 2006.

Commission Present: John Joseph Jr., Katherine O. Musgrave, Colon Durrell and Shelley Doak *ex-officio*.

Commission Absent: Michael Wiers

Department Officials: None

Staff Present: Stan Millay, Executive Director and Carol Gauthier, administrative assistant.

Legal Counsel: Lucinda White, Assistant Attorney General.

Intervenors Present: John Blake, H.P. Hood, Inc., John Economy, Garelick Farms of Maine and Thomas Brigham, Oakhurst Dairy.

Others Present: Dale Cole, dairy farmer and President, MDIA, Fred Hardy, MDIA and Julie-Marie Bickford, Executive Director, Maine Dairy Industry Association (MDIA). Also present were, Leon Graves from Dairy Marketing Services and Bob Wellington from Agri-Mark Cooperative, also dairy farmers Galen Larrabee, Chuck Farrand, Barney Wright, John Stoughton and Ronald Price. Attending from Feed Commodities, David Wadsworth. Attending from the University of Maine was Dr. George Criner.

Meeting called to order at 1:40 p.m. by acting chair, Colon Durrell.

Agenda Item 1: Minutes: Shelley Doak made a motion to accept the minutes of the meeting on October 20, 2006. John Joseph seconded. Motion passed 3-0.

Agenda Item 2: Lucinda White, Assistant Attorney General: Stan Millay provided copies of a memo prepared by Lucinda White that addresses the Commission's authority regarding adoption of prevailing premiums. In the memo Lucinda concludes that the Commission's authority in setting minimum prices is circumscribed by statutory language set forth in subsection 2 of 7 M.R.S.A. §2954 and are the considerations that must guide the MMC's decision-making.

This language does not require that the Commission automatically or formulaically recognize every "prevailing premium" in New England. Instead, the Commission must carefully weigh the statutory general factors, and use these to determine a minimum producer price that will preserve competition in the industry while also taking into account factors special to Maine milk production.

Agenda Item 3: Minimum Prices: There is a prevailing premium of \$1.10/cwt on Class I for December 2006 reported by Dairy Marketing Services (DMS). Agri-Mark Cooperative reported \$0.90/cwt on Class I outside of Maine but reported that they continue charging their Maine customers \$1.10/cwt. In addition to this premium, both Agri-Mark and DMS reported that an additional \$0.40/cwt for milk that comes from producers who do not treat their cows with the rBST hormone will be in affect on December milk.

There is a Farm Bill Counter Cyclical Payment (MILC) for December 2006 of \$0.4284. Congress has reauthorized the MILC program at a reduced rate: (34% of \$16.94 minus the Class I Price).

John Joseph made a motion to accept schedule #12-06 with a producer cost of production adjustment of \$1.35/cwt. It includes a \$15.68/cwt. Class I Price as announced by Federal Northeast Milk Market Administrator, plus \$1.10/cwt. as prevailing in neighboring states, plus an additional \$0.40/cwt. prevailing in neighboring states, plus \$1.40/cwt. for a handling fee and plus a \$0.20/cwt. processor assessment, for a total dealer Class I cost of \$20.13/cwt. Katherine Musgrave seconded the motion.

Bob Wellington supported the motion as stated but was concerned with inclusion of any rBST free premium. He said that rBST premiums are prevailing as are other similar premiums related to quality or volume. He told the Commission that demand for milk from cows not treated with rBST is widespread through the Northeast and producers should be compensated for the additional cost of providing it.

He suggested that the Commission add a footnote to the minimum price schedule that recognizes that there is a \$0.40/cwt premium being charged to Class I customers not included in the minimum price schedule. He said this could help Maine processors in negotiating wholesale price with their customers.

Tom Brigham informed the Commission that Oakhurst was increasing their rBST free premium from \$0.20/cwt. to \$0.30/cwt. beginning with December milk.

Julie-Marie Bickford told the Commission that MDIA was opposed to including rBST premiums in the minimum price schedule. She said these kinds of premiums are similar to quality premiums and organic premiums and are market driven. She said rBST premiums are not mentioned in Federal milk prices and should not be adopted into Maine's minimum milk price schedule.

She said consumers are paying more for milk whose labels claims it came from cows not treated with rBST. She pointed out that producers who have stopped treating their cows have reduced their production without increasing their income. This has resulted in a loss to the producer. She reminded the Commission that producers must recover their costs in order to stay in business.

She went on to say that once the Commission adopts a rBST premium into the schedule, it will be diluted and the producer will get less money and it will also be deducted from the stabilization program payment. She pointed out that processors can renegotiate their contracts in order to get their money back, but this option is not available to the producer.

Dale Cole told the Commission that processors could take care of themselves.

Julie-Marie Bickford said that the additional \$0.40/cwt. premium should not be reflected in the minimum price schedule.

Lucinda White asked whether or not the use of rBST was calculated into the costs of production adopted by the Commission.

Julie-Marie Bickford stated that rBST use was not included in the latest study.

Tom Brigham suggested that most of the data used in the producer cost of production study to set the first tier level came from small farms that do not use rBST so it is calculated in. He further suggested that producers would be essentially getting paid twice for the same thing if the rBST premium was not included in the price schedule.

George Criner told the Commission that rBST was not a specific line item in the cost of production study so there was not way to tell which farms were using it.

Dale Cole informed the Commission that producers are not trying to get paid twice for the same milk.

John Economy stated that he was sympathetic to dairy producers and that he had supported the dairy stabilization program legislation and subsequent cost of production studies conducted by the Commission. He told the Commission that the Garelick Farms of Maine Bangor Plant had not accepted milk from producers who use rBST for quite some time. Therefore the cost data from those farms that were used in the cost of production study would reflect costs of producing milk without the use of rBST. He went on to say that some of the very large farms that use rBST were excluded from the cost of production study so their cost data was not included.

He asked if the cost of production levels had been looked at since the price of fuel had started to go down.

Stan Millay responded by reporting that the latest update to the cost of production showed a 3% decrease in production costs.

John Economy asked about how much money the stabilization program had distributed lately.

Stan Millay responded by reporting that for October milk the stabilization program distributed \$1.241 million, ranging from \$0.53/cwt. to \$4.21/cwt., depending on who handled the milk and depending on which of the three tiers a producer was in.

John Economy told the Commission that Garelick Farms was bound by its contracts to the Maine Milk Commission minimum prices and that renegotiating those contracts was not that easy and would probably not be successful. He asked that the Commission help the processing side of the dairy industry by including the \$0.40/cwt. into the minimum price schedule. Otherwise he had no way to recover that additional cost. He said that if this \$0.40/cwt. is prevailing then it belonged in the price schedule.

John Joseph asked why reference is made to a rBST premium. He said that testimony he had heard so far indicated that there was \$1.50/cwt. prevailing.

Bob Wellington agreed, saying that there is \$1.50/cwt. prevailing in neighboring states and the Commission should consider it. He said that premiums exist for many reasons, not necessarily just for rBST milk.

Julie-Marie Bickford again reminded the Commission that rBST premiums are similar to quality premiums and are market driven. She went to say that the Commission does not adopt premiums paid to producers of organic milk. She reminded the Commission that the stabilization tier levels were established at the short-run breakeven point and were designed as a safety net. She pointed out that if the Commission added a premium to the Class I price for rBST only about 45% of it gets returned to the producer and then a like amount would be subtracted from the stabilization program so the producer ends up with no additional income. She said that the producer cannot pass along costs like the processors and retailers do and they need to recover their costs or go out of business.

She told the Commission that use of the Maine Quality Seal and rBST free labeling had made money for someone and it was not the producer. She pointed out that Maine processors had not accepted milk from rBST treated cows for a number of years and the processors had managed to pay for it, at least Oakhurst had she said. She asked why now it had to be included in the minimum price schedule. She stated that including it cost the producer. She said the processor could renegotiate their contracts.

Leon Graves supported the motion. He said \$1.50/cwt is prevailing and should be considered for adoption by the Commission. He went on to say premiums would likely increase after January. Demand for milk from cows not treated with rBST will continue to grow. He said that demand will increase the price and it will increase the processors' costs and it should be included in Maine's minimum prices so that processors can recover their costs.

Dale Cole said that the consumer will pay more for rBST free milk so let supply and demand determine the price and leave it out of the minimum price schedule.

Fred Hardy directed the Commission's attention to the supermarket retail price of milk that for November in some cases was as high as \$1.50 per gallon over the minimum gallon price set by the Commission. This is over \$16/cwt. in mark-up at retail. He said the producers should be able to at least recover their costs.

John Blake reported that as of November 1, H.P. Hood started paying the additional \$0.40/cwt. and if it was not included in the minimum price, they could not recover it. He said that Hood was bound by Maine's minimum price by contract. He said it was very difficult to renegotiate those contracts and that there was no guarantee that outside of Maine processors, not obligated by Maine's minimum producer prices, would not under bid them.

Julie-Marie Bickford told the Commission that if there was truly a supply and demand issue then the marketplace would pay. It does not have to be included in the minimum price schedule. She asked that the Commission consider putting the \$0.40/cwt. in a footnote or statement. She again pointed out that the processors could renegotiate their contracts. She said that otherwise, the processor gets their cost recovery while the producer loses.

Dale Cole again asked that the \$0.40/cwt. not be included in the minimum price schedule. He said that the processors could renegotiate their contracts with their customers.

Tom Brigham told the Commission that it was an over-simplification to say that the processor can renegotiate their contracts. He stated that processors have many complex contracts that have resulted over time.

John Economy agreed, stating that he is held to the minimum price schedule by his customers.

Shelley Doak made a motion to move the question. John Joseph seconded. Motion passed 3-0.

Vote was called on the motion for price schedule #12-06 as stated. Motion passed 3-0.

Agenda Item 4: Maine Monthly Price Survey: The Commission reviewed the Maine price survey for November 2006 which included prices for Augusta and Bangor and reviewed the September IAMCA milk price survey.

Agenda Item 5: Next Scheduled Meetings:

- December 22, 2006, Friday 1:30 p.m.
Room 233, Department of Agriculture, Food & Rural Resources, Augusta ME
- January 9, 2007, Tuesday 10:30 a.m.
Agricultural Trade Show Augusta Civic Center, Augusta, ME
- January 19, 2007, Friday 1:30 p.m.
Room 233, Department of Agriculture, Food & Rural Resources, Augusta ME
- February 23, 2007, Friday 1:30 p.m.
Room 233, Department of Agriculture, Food & Rural Resources, Augusta ME
- March 23, 2007, Friday 1:30 p.m.
Room 233, Department of Agriculture, Food & Rural Resources, Augusta ME

Agenda Item 6: Other:

1. **Milk Commission Budget:** The Commission reviewed income and expenditures.

2. **Dealer Margins:** George Criner reported that the University of Maine had collected necessary data from Maine's processors and would have a preliminary report available at the next meeting. Stan Millay explained that the data collected is sensitive and contains information that the processors have requested to be kept confidential. Lucinda White and Stan Millay explained that the Department of Agriculture's confidentiality statute had two provisions. First, information requested as a result of the Commission's statutory obligations is asked to be held as confidential by the owner of the information and second, the Commission must determine that the information is such that harm could result from its release. Shelley Doak made a motion to determine that the data collected from processors as a result of the processing cost study is proprietary and considered harmful to the owner of the information if not held confidential. John Joseph seconded. Motion passed 3-0.

Agenda Item 7: Executive Session: The Commission did not go into Executive Session.

Adjourned: 3:00 p.m.

Stanley Millay, Executive Director, Maine Milk Commission.